

PHELAN HALLINAN DIAMOND & JONES, PC

400 Fellowship Road, Suite 100

Mt. Laurel, NJ 08054

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Sherri J. Smith, Esq.
Legal Assistant

Representing Lenders in
New Jersey

December 10, 2018

RUSSELL L. LOW, ESQUIRE
LOW & LOW
505 MAIN STREET
SUITE 304
HACKENSACK, NJ 07601

RE: BRIAN T. FULTZ

File No. 815150

Case No. 18-26234 - RG

Dear Sir/Madam:

Regarding the above captioned matter, enclosed herewith please find a copy of the Notice of Objection to Confirmation, which was electronically filed with the Bankruptcy Court.

Very truly yours,
/s/ Sherri J. Smith
Sherri J. Smith, Esq.
Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054
Tel: 856-813-5500 Ext. 47923
Fax: 856-813-5501
Email: Sherri.Smith@phelanhallinan.com

JG/jbg
AS/jbg

Enclosure

*This firm is a debt collector attempting to collect a debt. Any information received will be used for that purpose. If you have received a discharge in bankruptcy, this is not and should not be construed as an attempt to collect a debt. We are only proceeding against the real estate secured by the mortgage.

NOTICE OF OBJECTION TO CONFIRMATION

PHH MORTGAGE CORPORATION has filed papers with the Court to object to the Confirmation of the Chapter 13 Plan.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to object to the Confirmation of the Chapter 13 Plan, or if you want the Court to consider your views on the Objection, then on or before January 9, 2019, you or your attorney must:

File with the Court an answer, explaining your position at:

**Clerk
U.S. Bankruptcy Court
50 Walnut Street, 3rd Floor
Newark, NJ 07102**

If you mail your response to the Court for filing, you must mail it early enough so that the Court will *receive* it on or before the date stated above.

You must also mail a copy to:

PHELAN HALLINAN DIAMOND & JONES, PC
400 FELLOWSHIP ROAD, SUITE 100
MT. LAUREL, NJ 08054

MARIE-ANN GREENBERG
CHAPTER 13 STANDING TRUSTEE
30 TWO BRIDGES RD, SUITE 330
FAIRFIELD, NJ 07004

U.S. TRUSTEE
US DEPT OF JUSTICE
OFFICE OF THE US TRUSTEE
ONE NEWARK CENTER STE 2100
NEWARK, NJ 07102

Attend the hearing scheduled to be held on 10/17/2018 in the NEWARK Bankruptcy Court, at the following address:

**U.S. Bankruptcy Court
50 Walnut Street, 3rd Floor
Newark, NJ 07102**

If you or your attorney do not make these steps, the Court may decide that you do not oppose the relief sought in the Objection and may enter an Order granting that relief.

Date: December 10, 2018

/s/ Sherri J. Smith
Sherri J. Smith, Esq.
Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054
Tel: 856-813-5500 Ext. 47923
Fax: 856-813-5501
Email: Sherri.Smith@phelanhallinan.com

File No. 815150

Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road
Mt. Laurel, NJ 08054
856-813-5500
FAX Number 856-813-5501
PHH MORTGAGE CORPORATION

In Re:

BRIAN T. FULTZ

Debtor

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE

Chapter 13

Case No. 18-26234 - RG

Hearing Date: January 16, 2019

The undersigned, Phelan Hallinan Diamond & Jones, PC, attorneys for Secured Creditor, PHH MORTGAGE CORPORATION, the holder of a Mortgage on debtor residence located at 610 MCBRIDE AVENUE, WEST PATERSON, NJ 07424-2822 hereby objects to the Confirmation of the debtor proposed Chapter 13 Plan on the following grounds:

1. Movant is PHH MORTGAGE CORPORATION.
2. Debtor, BRIAN T. FULTZ are the owners of the property located at 610 MCBRIDE AVENUE, WEST PATERSON, NJ 07424-2822.
3. On November 27, 2018, Movant filed a Proof of Claim listing pre-petition arrears in the amount of \$79,769.40.
4. Debtors' Modified Plan fails to cure the delinquency pursuant to 11 U.S.C. §1322(b)(5). Movant objects to Debtors' Modified Plan as it is underfunded. Debtors' Modified Plan should be amended to fully fund the arrears owed to Movant. Confirmation of Debtors' proposed Modified Plan should be denied.
5. Debtors' Modified Plan provides for the Debtors' pursuit of a loan modification. Debtors' Modified Plan is speculative in nature in that the Plan contemplates curing the arrears through a loan modification that has neither been offered nor approved.

6. Movant objects to the Debtor's Plan as Part 4 indicates that the post-confirmation payment is \$1,367.74 when in fact the actual post-petition payment is \$1,796.58. The Court should not allow the Plan be confirmed with this payment amount.

7. Additionally, Debtor's Plan fails to provide for the full monthly post-petition payment owed to Movant under the terms of the Note and Mortgage. Movant objects to any post-petition payment amount less than 100% of what is required. Accordingly, confirmation of Debtor's proposed Plan should be denied.

WHEREFORE, PHH MORTGAGE CORPORATION respectfully requests that the Confirmation of Debtor Plan be denied.

/s/ Sherri J. Smith
Sherri J. Smith, Esq.
Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054
Tel: 856-813-5500 Ext. 47923
Fax: 856-813-5501
Email: Sherri.Smith@phelanhallinan.com

Dated: December 10, 2018

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)

815150
Phelan Hallinan Diamond & Jones, PC
400 Fellowship Road, Suite 100
Mt. Laurel, NJ 08054
856-813-5500
Attorneys for PHH MORTGAGE CORPORATION

In Re:

Brian T. Fultz

Case No: 18-26234 - RG

Hearing Date: January 16, 2019

Judge: ROSEMARY
GAMBARDELLA

Chapter: 13

CERTIFICATION OF SERVICE

1. I, Joseph J. Parisi:

☐ represent the _____ in the above-captioned matter.

☒ am the secretary/paralegal for Phelan Hallinan Diamond & Jones, PC, who represents PHH MORTGAGE CORPORATION in the above captioned matter.

☐ am the _____ in the above case and am representing myself.

2. On December 12, 2018 I sent a copy of the following pleadings and/or documents to the parties listed below:

Objection to Plan

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: December 12, 2018

/s/ Joseph J. Parisi
Joseph J. Parisi

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
BRIAN T. FULTZ 610 MCBRIDE AVENUE SECOND FLOOR WOODLAND PARK, NJ 07424	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
RUSSELL L. LOW, ESQUIRE LOW & LOW 505 MAIN STREET SUITE 304 HACKENSACK, NJ 07601	Debtor's Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
MARIE-ANN GREENBERG CHAPTER 13 STANDING TRUSTEE 30 TWO BRIDGES RD, SUITE 330 FAIRFIELD, NJ 07004	Trustee	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
U.S. TRUSTEE US DEPT OF JUSTICE OFFICE OF THE US TRUSTEE ONE NEWARK CENTER STE 2100 NEWARK, NJ 07102	Trustee	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)

* May account for service by fax or other means as authorized by the court through the issuance of an Order Shortening Time.

Exhibit “A”

STATISTICAL INFORMATION ONLY: Debtor must select the number of each of the following items included in the Plan.

1 Valuation of Security 0 Assumption of Executory Contract or Unexpired Lease 0 Lien Avoidance

Last revised: September 1, 2018

**UNITED STATES BANKRUPTCY COURT
District of New Jersey**

In Re: Brian T. Fultz

Case No.: 18-26234

Judge: Rosemary Gambardella

Debtor(s)

CHAPTER 13 PLAN AND MOTIONS

☐ Original

☒ Modified/Notice Required

Date: November 27,
2018

☐ Motions Included

☐ Modified/No Notice Required

THE DEBTOR HAS FILED FOR RELIEF UNDER
CHAPTER 13 OF THE BANKRUPTCY CODE.

YOUR RIGHTS MAY BE AFFECTED

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the *Notice*. Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated. This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the *Notice*. The Court may confirm this plan, if there are no timely filed objections, without further notice. See Bankruptcy Rule 3015. If this plan includes motions to avoid or modify a lien, the lien avoidance or modification may take place solely within the chapter 13 confirmation process. The plan confirmation order alone will avoid or modify the lien. The debtor need not file a separate motion or adversary proceeding to avoid or modify a lien based on value of the collateral or to reduce the interest rate. An affected lien creditor who wishes to contest said treatment must file a timely objection and appear at the confirmation hearing to prosecute same.

The following matters may be of particular importance. Debtors must check one box on each line to state whether the plan includes each of the following items. If an item is checked as "Does Not" or if both boxes are checked, the provision will be ineffective if set out later in the plan.

THIS PLAN:

☐ DOES ☒ DOES NOT CONTAIN NON-STANDARD PROVISIONS. NON-STANDARD PROVISIONS MUST ALSO BE SET FORTH IN PART 10.

☒ DOES ☐ DOES NOT LIMIT THE AMOUNT OF A SECURED CLAIM BASED SOLELY ON VALUE OF COLLATERAL, WHICH MAY RESULT IN A PARTIAL PAYMENT OR NO PAYMENT AT ALL TO THE SECURED CREDITOR. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

☐ DOES ☒ DOES NOT AVOID A JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST. SEE MOTIONS SET FORTH IN PART 7, IF ANY.

Initial Debtor(s)' Attorney RLLInitial Debtor: BTF

Initial Co-Debtor _____

Part 1: Payment and Length of Plan

a. The debtor shall pay 280.00 Monthly to the Chapter 13 Trustee, starting on September 1, 2018 for approximately 60 months.

b. The debtor shall make plan payments to the Trustee from the following sources:



Future Earnings



Other sources of funding (describe source, amount and date when funds are available):

c. Use of real property to satisfy plan obligations:



Sale of real property

Description:

Proposed date for completion: _____



Refinance of real property:

Description:

Proposed date for completion: _____



Loan modification with respect to mortgage encumbering property:

Description: Property Location: 610 McBride Avenue, Woodland Park, New Jersey 07424 arrears will be part of a loan modification

Proposed date for completion: February, 2019

d.



The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

e.



Other information that may be important relating to the payment and length of plan:

Pre-Adequate Protection payment for 610 McBride Avenue, Woodland Park, New Jersey 07024 in the amount of \$1,367.74.

Part 2: Adequate Protection☒ NONE

a. Adequate protection payments will be made in the amount of \$_____ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to _____ (creditor).

b. Adequate protection payments will be made in the amount of \$_____ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to: _____ (creditor).

Part 3: Priority Claims (Including Administrative Expenses)

a. All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
Russell L. Low 4745	Attorney Fees	3,750.00

- b. Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:
Check one:
☒ None
☐ The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim pursuant to 11 U.S.C.1322(a)(4):

Creditor	Type of Priority	Claim Amount	Amount to be Paid
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Part 4: Secured Claims

a. Curing Default and Maintaining Payments on Principal Residence: ☐ NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
MORTGAGE SERVICE CENTE	610 McBride Avenue Woodland Park, NJ 07424 Passaic County	61,740.41	5.25	11,370.00	1,367.74

b. Curing and Maintaining Payments on Non-Principal Residence & other loans or rent arrears: ☒ NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor will pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
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c. Secured claims excluded from 11 U.S.C. 506: ☒ NONE

The following claims were either incurred within 910 days before the petition date and are secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or incurred within one year of the petition date and secured by a purchase money security interest in any other thing of value:

Name of Creditor	Collateral	Interest Rate	Amount of Claim	Total to be Paid through the Plan Including Interest Calculation
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d. Requests for valuation of security, Cram-down, Strip Off & Interest Rate Adjustments ☐ NONE

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

NOTE: A modification under this section ALSO REQUIRES

the appropriate motion to be filed under Section 7 of the Plan.

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to Be Paid
AWA Collections	610 McBride Avenue Woodland Park, NJ 07424 Passaic County	50,085.00	190,000.00	Mortgage MORTGAGE SERVICE CENTE - 225,904.30	No value	N/A	0.00

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

e. Surrender ☐ NONE

Upon confirmation, the stay is terminated as to surrendered collateral only under 11 U.S.C. 362(a) and that the stay under 11 U.S.C 1301 be terminated in all respects. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt
Specialized Loan Servicing LLC	615 McBride Avenue West Paterson, NJ 07424 Passaic County Co-owns with wife	0.00	0.00

f. Secured Claims Unaffected by the Plan ☒ NONE

The following secured claims are unaffected by the Plan:

Creditor

g. Secured Claims to be Paid in Full Through the Plan ☒ NONE

Creditor	Collateral	Total Amount to be Paid through the Plan
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Part 5: Unsecured Claims ☐ NONE

a. **Not separately classified** allowed non-priority unsecured claims shall be paid:

☐ Not less than \$_____ to be distributed *pro rata*

☐ Not less than _____ percent

☒ *Pro Rata* distribution from any remaining funds

b. **Separately classified unsecured** claims shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid
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Part 6: Executory Contracts and Unexpired Leases ☒ NONE

(NOTE: See time limitations set forth in 11 U.S.C. 365(d)(4) that may prevent assumption of non-residential real property leases in this Plan.)

All executory contracts and unexpired leases, not previously rejected by operation of law, are rejected, except the following, which are assumed:

Creditor	Arrears to be Cured in Plan	Nature of Contract or Lease	Treatment by Debtor	Post-Petition Payment
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Part 7: Motions ☐ NONE

NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service, Notice of Chapter 13 Plan Transmittal and valuation* must be filed with the Clerk of Court when the plan and transmittal notice are served.

a. Motion to Avoid Liens under 11 U.S.C. Section 522(f). ☒ NONE

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided
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b. Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured. ☐ NONE

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor's Interest in Collateral	Total Amount of Lien to be Reclassified
AWA Collections	610 McBride Avenue Woodland Park, NJ 07424 Passaic County	50,085.00	190,000.00	Mortgage MORTGAGE SERVICE CENTE - 225,904.30	-35,904.30	50,085.00

c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured. ☐ NONE

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured
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Part 8: Other Plan Provisions

a. Vesting of Property of the Estate

- ☒ Upon Confirmation
☐ Upon Discharge

b. Payment Notices

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

c. Order of Distribution

The Standing Trustee shall pay allowed claims in the following order:

- 1) Ch. 13 Standing Trustee Commissions
- 2) Other Administrative Claims
- 3) Secured Claims
- 4) Lease Arrearages
- 5) Priority Claims
- 6) General Unsecured Claims

d. Post-Petition Claims

The Standing Trustee ☐ is, ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

Part 9: Modification ☒ NONE

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being modified: September 14, 2018.

Explain below **why** the plan is being modified:

The Plan is being modified because the debtor is surrendering the property at 615 McBride Ave West Paterson, NJ 07424.

Explain below **how** the plan is being modified:

The Plan is being modified to include the property at 615 McBride Ave West Paterson, NJ 07424 as surrendered.

Are Schedules I and J being filed simultaneously with this Modified Plan? ☐ Yes ☒ No

Part 10 : Non-Standard Provision(s): Signatures Required

Non-Standard Provisions Requiring Separate Signatures:

☒ NONE

☐ Explain here:

Any non-standard provisions placed elsewhere in this plan are ineffective.

Signatures

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Plan.

By signing and filing this document, the debtor(s), if not represented by an attorney, or the attorney for the debtor(s) certify that the wording and order of the provisions in this Chapter 13 Plan are identical to *Local Form, Chapter 13 Plan and Motions*, other than any non-standard provisions included in Part 10.

I certify under penalty of perjury that the above is true.

Date: November 27, 2018

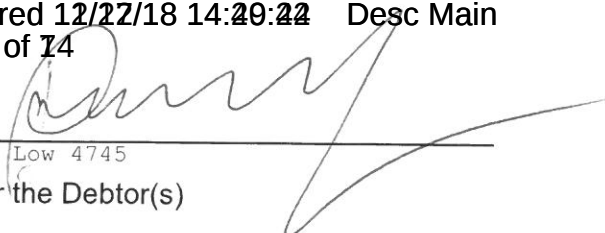
Brian T. Fultz

Debtor

Date:

Joint Debtor

Date November 27, 2018



Russell L. Low 4745
Attorney for the Debtor(s)